IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 2949 of 2006

Date of Decision: 20.11.2006

Sanjeev Kumar ...Petitioner

Vs.

Sumer Chand ...Respondent

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.I.P.Singh, Advocate,
for the petitioner.

Mr.Rajinder Goel Advocate,
for the respondent.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against the order of ejectment passed against the petitioner under Section 13 (3) (a) (iv) of the Haryana Urban (Control of Rent & Eviction) Act, 1973, which reads as under:-

> **"13(3)(a)(iv)** the tenant has already in his own possession a residential building or subsequently acquires possession of, or erects, such a building reasonably sufficient for his requirement in the urban area concerned;"

The learned Rent Controller and the learned Appellate Authority on the basis of evidence have recorded a finding of fact that the

tenant-petitioner has purchased three shops in Sikka Market, Kaithal within the urban area of Municipal Committee, Kaithal wherein tenanted premises itself is situated and now enjoying possession of the same and running the business of spare parts which are sufficient for his business.

The only contention of the learned counsel for the petitioner is that the courts below have wrongly placed reliance on the judgment of **Harbilas Rai Bansal Vs. The State of Punjab 1996 HRR 1** for **o**rdering the ejectment of the petitioner. The contention of the learned counsel for the petitioner is that in the said judgment Hon'ble Supreme Court has only permitted the eviction of the tenant from a commercial building on the ground of personal necessity in the absence whereof no order of ejectment could be passed. This contention is totally misconceived.

The East Punjab Urban Rent Restriction (Amending Act) 1956 was quashed by the Hon'ble Supreme Court holding the same to be ultra vires. It was in the said Act that in sub-clause (iv) the word 'any building' was substituted by the word 'any residential building'. In view of the quashing of the said Act the original Act came into force and accordingly, the landlord became entitled to eject the tenant from any building in case the tenant acquires accommodation of his own in the area concerned.

Learned counsel for the petitioner contended that the respondent-landlord had earlier filed a petition for eviction on the ground of personal necessity which was dismissed by the courts below and revision against the said order is pending in this Court. The contention of the learned counsel for the petitioner, therefore, was that he was not entitled to file a second petition for ejectment of the petitioner.

This contention of the learned counsel for the petitioner is

totally misconceived. Once a right is given to the landlord for eviction of a tenant under a statute the same has to be given effect to and the right cannot be defeated merely because a landlord has failed on other grounds.

No merit. Dismissed.

(Vinod K.Sharma)
Judge

20.11.2006
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